

Serial No. ~~10/594,655~~ 10/549655 TW
Examiner: Sarah A. Simpson
Reply to Office Action Mailed September 8, 2009
Page 2 of 6

REMARKS

Reconsideration is requested in view of the following remarks. Claims 1-24 remain pending in the application.

Claim Rejections – 35 USC § 102

Claims 1 and 17 are rejected under 35 USC § 102(b) as being anticipated by Mauze et al. (US 6,210,420). Applicants respectfully traverse this rejection.

Claim 1 requires a moving member being moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space.

Mauze et al. fail to teach a moving member being moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space, as required by claim 1. The rejection relies on the text at col. 4, lines 25-41 of Mauze et al. as teaching this arrangement. However, this text merely indicates that when the piston 114 is pulled backward, a void volume in the head channel 156 is increased, thereby reducing the air pressure therein to a pressure less than that of an ambient pressure, i.e., the air pressure external to a head 106. That is, the reduced pressure is caused by the pull back of the piston 114, but does not cause the piston 114 to move. Mauze et al. is completely silent as to a moving member being moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space. In fact, Mauze et al. discusses a backward movement of a piston 178 being caused by a restoring force of a resilient support 204, but not by a pressure difference, upon removal of the suction via a suction port 180 (See Mauze et al., col. 6, lines 20-22.). For at least these reasons, claim 1 is patentable over Mauze et al.

Claim 17 is patentable over Mauze et al. for reasons similar to those discussed above for claim 1. Claim 17 requires a moving member being moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space. Mauze et al. fail to disclose such an arrangement as required by claim 17. For at least these reasons, claim 17 is patentable over Mauze et al.

Serial No.: 40594655 / 0159655 TW
Examiner: Sarah A. Simpson
Reply to Office Action Mailed September 8, 2009
Page 3 of 6

Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claims. Reconsideration of the rejection is respectfully requested.

Claims 1, 17 and 23-24 are rejected under 35 USC § 102(b) as being anticipated by Moerman et al. (US 2002/0130042). Applicants respectfully traverse this rejection.

Claim 1 requires a moving member being moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space.

Moerman et al. fail to teach a moving member being moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space, as required by claim 1. Instead, Moerman et al. merely discuss that a backwards motion of a lancet assembly after the skin is pierced creates a reduced pressure in this region (See Moerman et al., last sentence of paragraph [0028]). In fact, as clearly illustrated in Figs. 2A-C and paragraph [0028] of Moerman et al., the reduced pressure in the inner space of the housing 1 in Moerman et al. is generated as a result of a backward motion of a plunger 24, where the backward motion of the plunger 24 is caused by a restoring force of a spring 20, but not by a pressure difference produced between two spaces. For at least these reasons, claim 1 is patentable over Moerman et al. Claim 23 depends from claim 1 and is patentable along with claim 1 and need not be separately distinguished at this time.

Claim 17 is patentable over Moerman et al. for reasons similar to those discussed above for claim 1. Claim 17 requires a moving member being moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space. Moerman et al. fail to disclose such an arrangements as required by claim 17. For at least these reasons, claim 17 is patentable over Moerman et al. Claim 24 depends from claim 17 and is patentable along with claim 17 and need not be separately distinguished at this time.

Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claims. Reconsideration of the rejection is respectfully requested.

Serial No.: ~~48594-655~~ 10/549655 TW
Examiner: Sarah A. Simpson
Reply to Office Action Mailed September 8, 2009
Page 4 of 6

Claim Rejections – 35 USC § 103

Claims 1-24 are rejected under 35 USC 103(a) as being unpatentable over Sato et al. (US 7,131,984) in view of Mauze et al. Applicants respectfully traverse this rejection.

Claim 1 requires a moving member being moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space.

Sato et al. fail to teach or suggest a moving member being moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space, as required by claim 1. Instead, col. 7, lines 4-22 of Sato et al. merely discuss how the pump mechanism 3 works to cause a vacuum in the space 21 of the housing. Specifically, col. 7, lines 4-22 merely discuss how valves 33A, 33B work with the pressure chamber 30 to pump the air out of the space 21 through the pressure chamber 30. The movement of the cylinder 31 in directions N1, N2 is not driven by a pressure difference between the pressure chamber 30 and the space 31. In fact, the movement of the cylinder 31 merely generates a negative pressure to be applied to the skin Sk, but does not cause the cylinder 31 to move (see Sato et al., col. 7, lines 2-22 and Figs. 5 and 6)).

Mauze et al. do not remedy the deficiencies of Sato et al. as discussed above. For at least these reasons, claim 1 is patentable over Sato et al. in view of Mauze et al. Claims 2-16 and 23 depend ultimately from claim 1 and are patentable along with claim 1 and need not be separately distinguished at this time.

Claim 17 is patentable over Sato et al. and Mauze et al. for reasons similar to those discussed above for claim 1. Claim 17 requires a moving member being moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space. Sato et al. and Mauze et al. fail to disclose such an arrangement as required by claim 17. For at least these reasons, claim 17 is patentable over Sato et al. in view of Mauze et al. Claims 18-22 and 24 depend ultimately from claim 17 and are patentable along with claim 17 and need not be separately distinguished at this time.

Serial No. ~~10/594,655~~ 10/549,655 TW
Examiner: Sarah A. Simpson
Reply to Office Action Mailed September 8, 2009
Page 5 of 6

Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claims. Reconsideration of the rejection is respectfully requested.

Claims 1-24 are rejected under 35 USC 103(a) as being unpatentable over Sato et al. in view of Moerman et al. Applicants respectfully traverse this rejection.

Claim 1 is patentable over Sato et al. and Moerman et al. for reasons similar to those discussed above. Claim 1 requires a moving member being moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space. Sato et al. fail to disclose such an arrangement as required by claim 1. Moerman et al. do not remedy the deficiencies of Sato et al. as discussed above. For at least these reasons, claim 1 is patentable over Sato et al. in view of Moerman et al. Claims 18-22 and 24 depend ultimately from claim 17 and are patentable along with claim 17 and need not be separately distinguished at this time.

Claim 17 is patentable over Sato et al. and Moerman et al. for reasons similar to those discussed above for claim 1. Claim 17 requires a moving member being moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space. Sato et al. and Moerman et al. fail to disclose such an arrangement as required by claim 17. For at least these reasons, claim 17 is patentable over Sato et al. in view of Moerman et al. Claims 18-22 and 24 depend ultimately from claim 17 and are patentable along with claim 17 and need not be separately distinguished at this time.

Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claims. Reconsideration of the rejection is respectfully requested.

Mar. 8. 2010 4:20PM HSML, PC

No. 2583 P. 8/8
RECEIVED
CENTRAL FAX CENTER
MAR 08 2010

Serial No.: ~~10/547655~~ ^{10/547655 TW}
Examiner: Sarah A. Simpson
Reply to Office Action Mailed September 8, 2009
Page 6 of 6


In view of the above, favorable reconsideration in the form of a notice of allowance is respectfully requested. Any questions regarding this communication can be directed to the undersigned attorney, Douglas P. Mueller, Reg. No. 30,300, at (612) 455-3804.

Respectfully submitted,

HAMRE, SCHUMANN, MUELLER &
LARSON, P.C.
P.O. Box 2902-0902
Minneapolis, MN 55402-0902
(612) 455-3800



Dated: March 8, 2010

By: 
Douglas P. Mueller
Reg. No. 30,300

DPM/cy